IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27. 06.2006

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

WRIT PETITION Nos.17005,18495,24161 of 2001
and
WPMP.Nos.25178, 25180 of 2001

N.Manoharan ... Petitioner in all the writ petitions

Vs.

Bharathiar University
rep.by its Registrar,
Maruthamalai Road,
Coimbatore - 641 046 .. Respondent in WP.No.18495/01 and WP.No.17005 and 1st Respondent in WP NO. 24161/01

N.Munusamy .. 2nd Respondent in 24161 of 2001

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus as stated therein.

For petitioner : Mr.C.Selvaraj,
Senior Counsel
for Mr. M.V.Muralidharan
For respondents :
For R1 : Mr.C.Chinnasamy, Senior Counsel
For R2 : Mr.N.G.R.Prasad, Senior Counsel

C O M M O N O R D E R

Prayer in WP.No.17005 of 2001

This Writ Petition has been filed praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the proceedings pursuant to and culminating in the Notification No.Ref.6260/E3/2001, dated 28.06.2001 of the respondent and quash the same and issue a direction to the respondent to call/select the petitioner for selection to the post of Public Relations

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Officer pursuant to the Notification No.Ref.No.6260/E3/2001, dated 28.06.2001 of the respondent.

Prayer in WP.No.18495 of 2001:-

This Writ Petition has been filed praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the proceedings pursuant to the Notification No.Ref.6260/E3/2001, dated 28.06.2001, for the selection of Public Relations Officer and culminating in the Notification No.Ref.No.E3/13854/2001, dated 17.09.2001, of the respondent and quash the same and issue a direction to the respondent to select the petitioner for the post of Public Relations Officer.

Prayer in WP.No.24161 of 2001:

This Writ Petition has been filed praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent in its proceedings No.5835/E3/2001, dated 01.10.2001, and quash the same and issue a direction to the first respondent to call for and conduct the selection process afresh for the post of Public Relations Officer in accordance with Govt.Letter.No.12974/H1/2001-1 Higher Education Department, dated 12.04.2001.

2. Heard the learned counsel for the petitioner as well as the respondents.

3. It is the case of the petitioner that he had joined duty at the respondent University, on 16.04.1986, as Junior Assistant-cum-Typist. The petitioner had passed master of arts decree with 51% , Diploma in Labour Law and Administrative Law which is recognised as Diploma for being appointed as Welfare Officers by G.O.Ms.No.1905, Labour Department, dated 06.09.1985, of the Government of Tamil Nadu, Bachelor of Commerce (B.Com), Post Graduate Diploma in Journalism in Mass communication, Certificate in Book-keeping and Accountancy (National Council for Vocational Trade, New Delhi). The petitioner had also completed nearly 16 years of service in the respondent university and he had occupied the post of Junior assistant cum typist and subsequently promoted to the post of Assistant with effect from 16.04.1993 and upgraded to the post of Superintendent (Deemed) with effect from 16.04.2000, re-designated as Assistant Section Officer with monetary benefit with effect from 01.07.2001. While so, the respondent by way of a notification in reference No.6260/E3/2001, dated 28.06.2001, advertised for the recruitment of Public Relations Officer in the University, specifying the post as one post (General Turn) in the scale of Rs.8,000-275-13,500/-, and fixed the qualification essential as good academic record of Masters Degree with atleast 55% of marks

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(50% for SC&ST categories or its equivalent grade). But for the UGC scale the desirable qualification fixed as post graduate Diploma in Human Resources Development or Distance Education / Degree or Diploma in Public Relations or equivalent Diploma or recognised University /Institution and the age limit was also fixed as 40 years (45 years for SC &ST categories) and the petitioner had submitted an application for the post vide application No.11042, dated 23.07.2001. The petitioner had reliably understood that the qualification fixed for Public Relations Officer is by a resolution of the University Syndicate , dated 23.03.2001.

4. It is further stated by the petitioner that the prescription of the qualifications by the respondent and non-compliance of the directions of the Government holding the field consequently lead to the issue of the advertisement calling for applications for the appointment of Public Relations Officer contrary to the letter No.12974/H1/2001 Higher Education Department, dated 12.04.2001, of the Government of Tamil Nadu which specifically mandates that the existing incumbent should not be fastened with the minimum qualification mark of 55%, Whereas for another higher post being Controller of Examinations the government direction has been followed. This is evidenced by the advertisement, dated 25.07.2001, for the post of Controller of Examinations where the following note has been incorporated.

> " The minimum requirement of 55% shall not be insisted upon for the post for the existing incumbent who is already in the University system."

5. The petitioner had made several representations seeking for relaxation with reference to the educational qualifications of 55% and that his age was also beyond which was specified, since he was 44 years of age. However, the petitioner came to understand on 14.09.2001, that call letters for interview were sent to certain candidates. The petitioner and some of the candidates had been left out and the petitioner was not called for. However, one Mr.Sounderraja Perumal, who had worked as a Section Officer in the Finance Section at the University was called for the interview.

6. The petitioner further submits that he had requested for relaxation of the age limit with regard to the education qualifications as per the Government directions in reference No. letter.No.12974/H1/2001 Higher Education Department, dated 12.04.2001, of the Government of Tamil Nadu, which should have been followed, since it was mandatory in nature.

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7. On the contrary, it is submitted on behalf of the respondent University that the Syndicate of Bharathiar University in its meeting, dated 14.06.1986, had resolved to create the post of Public Relations Officer in the University, but no qualifications were prescribed in the said meeting and therefore, the post was not filled up in the meeting of the Syndicate held on 30.10.2000, and it was decided to fill up the post by a regular staff.

8. In the Syndicate meeting held on 30.10.2000, it was resolved that details of qualifications prescribed for the post of Public Relations Officer be obtained from other Universities in Tamil Nadu and qualifications be prescribed for the post and brought to the Syndicate for consideration and approval.

9. It is submitted that the Syndicate, in its meeting held on 23.03.2001, considered fixing of qualifications for the post of Public Relations Officer at the University, based on the details received from other Universities, and prescribed the qualifications for the post of Public Relations Officer as equivalent to that of Assistant Registrar. The qualifications for the post of Assistant Registrar was prescribed by the State Government vide G.O.No.56 (Higher Education Department), dated 25.02.2000, of the Govt. of Tamil Nadu. It was prescribed that the qualifications essential were good academic record plus Master's Degree with atleast 55% of the marks or its equivalent grade of B in the UGC seven point scale. The said qualification prescribed was also approved by the Finance Committee of the University in its meeting held on 13.03.2000. Later, the same was approved by the Syndicate of the Bharathiar University in its meeting held on 28.03.2000.

10. In the mean while, by a letter No.12974/H1/2000-2, dated 12.04.2001, the State Government had issued an amendment to the G.O.No.56 (Higher Education Department), dated 25.02.2000, relaxing the qualifications prescribed for the post of Assistant Registrar. A relaxation of 5% marks was provided for SC/ST categories and to the Ph.D holders who have passed the Master's Degree prior to 19th September, 1991.

11. It is stated that the said government letter was applicable only for teachers working in the Colleges/Universities and not for any non-teaching employees. It is further stated that after fixing the qualifications for the post of Public Relations Officer as equivalent to that of Assistant Registrar and after deciding to fill up the post of Public Relations Officer by direct recruitment, the respondent University had given a notification in the newspapers, calling for applications for the said post, specifying the qualifications as follows :-

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" Good Academic record plus Master's Degree with at least 55% (50% for SC/ST) of the marks or its equivalent grade of B in the UGC seven point scale."

Desirable :
Post Graduate Diploma in Human Resource Development or Distance Education/Degree or Diploma in Public Relations or an equivalent diploma of a recognised University/Institution.
Age should not exceed 40 years. (45 years for SC/ST).

12. It is further submitted by the respondent, that totally 67 applications were received, out of which seven were from the staff who were working in the University in the lower cadres and 60 from outsiders. The petitioner was also one of the applicants and at the time of submitting his application he had not challenged the prescribed qualifications. The petitioner could not be considered since he did not possess the minimum required 55% marks of PG Degree Course. However, Mr.Sounderraja Perumal, who was working as superintendent in the respondent University had been called for the interview since he had 56% marks in his Post Graduate Degree, even though he was over aged. The interview for the post of Public Relations Officer was fixed on 18.09.2001, and interview call letters were sent on 10.09.2001 and the interview was held on 18.09.2001. The minutes of the Selection Committee was placed before the Syndicate in the meeting held on 21.09.2001 and it was resolved that one Mr.Natchimuthu Munusamy be appointed as Public Relations Officer under the GT Category. The appointment order was issued vide registrar's proceedings No.5835/E-3/2001, dated 01.10.2001. The selected candidate one Mr.Natchimuthu Munusamy, had joined duty on the forenoon of 20.12.2001, as Public Relations Officer in the University. He had been working as an Assistant Director (Information and Publicity) of the Govt. of Union Territory of Pondichery. The Selection Committee, chaired by the Vice- Chancellor along with five experts, selected the second respondent candidate for the post of Public Relations Officer in accordance with the rules and regulations applicable to such selection and there was no mala fides in the selection as alleged by the petitioner. The selection of the second respondent was purely on merit as he had possessed all the qualifications prescribed for the post of Public Relations Officer and therefore, the writ petition is liable to be dismissed as being without merits. Since all the three writ petitions are relating to the common issue of selection to the post of Public Relations Officer in the first respondent University, a common order has been passed.

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13. On a perusal of the records made available, the affidavits filed in support of the writ petitions as well as the counter affidavits filed by the respondent University and on hearing the arguments adduced for both the petitioner as well as the respondents, this Court is of the considered view that the selection of the second respondent as Public Relations Officer of the first respondent University is fully justified since he possessed all the prescribed qualifications for the said post. On the other hand, the petitioner had not specified both the educational and the age qualifications. With regard to the contentions raised by the petitioner, when the qualifications prescribed for the post of Public Relations Officer, the Controller of Examinations had stated that the minimum requirement of 55% shall not be insisted upon in respect of the existing incumbent who are already in the University system which according to the petitioner was contrary to the letter.No. No.12974/H1/2001 Higher Education Department, dated 12.04.2001, of the Government of Tamil Nadu. With regard to this issue, the respondent has stated that the advertisement of the University, dated 28.06.2001, by which applications were called for by the University for the post of Controller of Examinations was issued based on the qualifications prescribed by the University Grants Commission for the post of Registrar of the University. The post of Registrar is equivalent to the Professor of the University Department. The State Government had not issued any order specifying the qualifications for the post of Registrar and therefore, the qualifications prescribed by the University Grants Commission for the post of Registrar had been adopted by the University. Even as per the University Grants Commission the post of Assistant Registrar is an entry level post whereas the post of Professor can be filled up by promotion from the cadre of Readers. As per the University Grants Commission Guidelines, relaxation of 5% marks at P.G.Degree can be given to the posts like Principals, Professors, Readers, Librarians, Deputy Librarians, Directors of Physical Education and Deputy Director of Physical Education for the existing incumbents who are already in the University system and cannot be given for the posts for those entering the system from outside and for those at the entry point of Lecturers , Assistant Registrars, Assistant Librarians, Assistant Director of Physical Education. Therefore, the question of granting such relaxation cannot be applicable in the case of the petitioner.

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In the above circumstances, the petitioner has not made out a case to get the relief as prayed for. Therefore, the writ petitions are dismissed as being devoid of merits. Consequently, the connected WPMPs are closed. No Costs.

ssm

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Registrar,
Bharathiar University
Maruthamalai Road,
Coimbatore - 641 046.

+ 3 cc to Mr. M.V. Muralidharan, Advocate sr no. 27294 to 27296
+ 1 cc to Mr. R. Rajaram, Advocate sr no. 27084
+ 1 cc to Mr. S. Haja Mohideen Gisthi, Advocate sr no. 27201

AMB(CO)
NM(29.06.2006)

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